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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,439	04/17/2001	Pierre Glaesener	13201.00042	7938
27160	7590	02/21/2006	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			JOYCE, WILLIAM C	
525 WEST MONROE STREET			ART UNIT	
CHICAGO, IL 60661-3693			PAPER NUMBER	
			3682	

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/835,439	Applicant(s) GLAESNER ET AL.	
	Examiner William C. Joyce	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 27-35 is/are pending in the application.
- 4a) Of the above claim(s) 2-6 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7-11 and 27-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to the amendment filed December 6, 2005 for the above identified patent application.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 7, 27, 28, 30, 31, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Faint et al. (US Patent 4,759,452).

Faint et al. discloses a flexible shoe assembly comprising: a body (52) for supporting a load, a force redirector, said body having an upper wearing surface configured to slideably engage a linearly moving complimentary surface of a supported member, and a cylindrical mounting lower surface configured to engage a supporting member (54) and providing adjustment of said shoe assembly during installation, said force redirector being defined by the cylindrical mounting surface and disposed in said body in a plane below said upper surface so as to redirect said force from a leading edge and a trailing edge of said upper surface to a central area in said body.

The bearing arrangement is considered “flexible” because it adapts or changes positions so as to be properly aligned with the linearly moving complementary surface.

The recitation of "molding system" found in the preamble has been given little patentable weight. It is noted applicant elected (filed June 3, 2004) to prosecute the subcombination of a flexible shoe assembly and not the combination of the molding machine and the shoe assembly.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7-11 and 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlereth (US Patent 5,176,454) in view of Osawa (US Patent 4,941,758).

Schlereth discloses a flexible shoe assembly comprising: a body (16) for supporting a load, a force redirector (34), said body being integrally connected to a linear bearing arrangement, the linear bearing arrangement is formed with a bearing surface configured to slideably engage a linearly moving complimentary surface of a supported member, and a support surface (20) configured to engage a supporting member and providing adjustment of said shoe assembly during installation, said force redirector disposed in said body in a plane above said linear bearing arrangement so as to redirect said force from a leading edge and a trailing edge of said bearing arrangement to a central area thereof.

With respect to the limitations defining the orientation of the device, such as “upper wear surface” and “lower mounting surface,” it is understood the device of Schlereth can be positioned in any orientation, including an inverted orientation which meets the claim limitations.

Schlereth does not clearly teach the linear bearing arrangement having a “wear surface” but teaches a plurality of balls for reducing friction between the relatively moving components. It was well known in the art to configure a linear bearing device with the claimed wear surface. For example, the prior art to Osawa teaches a linear bearing arrangement having a wear surface (11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the linear bearing of Schlereth with a linear bearing having a wear surface, as taught by Osawa, motivation being to reduce the number of components of the device thereby reducing the cost and assembly time of the device.

With respect to claims 10 and 11, the device of Schlereth inherently includes stops for limiting the pivoting movement of the device.

With respect to claim 27, Schlereth illustrates a through hole (22) extending lengthwise through the support. In the event applicant amends the claims to more clearly define the lengthwise direction as illustrated in the instant application, the claim would be rejected because it would have been obvious to one in the art to position the attachment holes in any direction depending on the particular configuration of the supporting structure.

With respect to claim 29, Schlereth does not disclose the support surface as semi-cylindrical, It would have been obvious to one in the art at the time the invention was made to modify the flat support surface of Schlereth with a semi-cylindrical surface, motivation being to adapt the device for a particular application.

Response to Arguments

5. Applicant's arguments filed December 6, 2006 have been fully considered but they are not persuasive.

Applicant argues the body of Faint et al. does not comprise the combination of an upper wear surface, a lower mounting surface, and a force redirector. Further, applicant argues Faint et al. does not have a force redirector which is different from the lower mounting surface. Referring to Figure 2, Faint et al. illustrates a two piece shoe assembly having an upper member (52) and a lower member (54), wherein the combined upper and lower members define a bearing body. The bearing body comprises an upper wear surface formed on the upper portion of the upper member, a lower mounting surface formed on the lower member, and a cylindrical force redirector surface formed at a connection surface between the upper and lower members. Note, the cylindrical surface extends in a direction substantially perpendicular to the relative linear movement of the bearing components, such that the force from the leading edge and from the trailing edge of the upper wear surface is redirected to a central area of the upper wear surface. In view of applicant's arguments, it appears applicant is interpreting the term "body" as a single component, however the term "body" can be

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made up of multiple components. Referring to the Merriam Webster's Collegiate Dictionary, tenth edition, the term "body" is defined as "a group of persons or things." Accordingly, the upper and lower bearing components of Faint et al. are considered a bearing body. In light of the above remarks, the claim rejection based on the prior art to Faint et al. is considered proper.

The argument "Schlereth fails to disclose any body having an upper wear surface, as the webbed structures are bolted to the fixed element. As noted above, the term "body" does not preclude a device having several components joined together by joining means.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the linear bearing of Schlereth with a linear bearing having a wear surface, as taught by Osawa, motivation being to reduce the number of components of the device thereby reducing the cost and assembly time of the device.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that

any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The argument “[n]either Schlereth nor Osawa discloses or suggests a force director having a pair of slots in the body forming a web having an integral bearing surface thereon...” is not persuasive. Referring to Figures 1-2, Schlereth illustrates slots extending along lines CI and CII, webs (28,34) extending in a directing perpendicular to the slots, wherein the webs are formed with integral bearing surfaces, the body having one fixation bore (22) extending lengthwise through a lower support of the body.

In view of the above noted remarks, the prior art to Faint et al. and the combined teachings of Schlereth and Osawa anticipate the claim language. Accordingly the claims are properly rejected.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Joyce whose telephone number is (571) 272-7107. The examiner can normally be reached on Monday - Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William C. Joyce 2/16/06